U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536

C-1

U.S. Citizenship and Immigration Services

[redacted]

File: EAC 01 230 51424 Office: VERMONT SERVICE CENTER Date: JUL 9 2004

IN RE: Petitioner: [redacted]
Beneficiary:

Petition: Immigrant Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C)

IN BEHALF OF PETITIONER:

[redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director
Administrative Appeals Office

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identifying data deleted to prevent clearly unwarranted invasion of personal privacy

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Vermont Service Center. The Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is now before the AAO on a motion to reopen.[1] The motion will be denied, the previous decision of the AAO will be affirmed and the petition will be denied.

The petitioner is a church. It seeks to classify the beneficiary as a special immigrant religious worker pursuant to section 203(b)(4) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(4), to perform services as a minister. The director denied the petition on April 19, 2002. This director's decision was upheld by the AAO in a decision dated June 18, 2003. On June 19, 2003, the petitioner filed a timely motion to reopen the decision made by the AAO.

The regulation at 8 C.F.R. § 103.5(a)(2) requires that a motion to reopen state the new facts to be provided in the reopened proceeding, supported by affidavits or other documentary evidence. Further, the regulation at 8 C.F.R. § 103.5(a)(3) requires that a motion to reconsider state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service policy.

On the Form I-290B Notice of Appeal, the petitioner indicated that a brief would be forthcoming within thirty to sixty days. The regulations do not provide for the extension of time within which to supplement the record on motion, but require documentary support to be filed with the motion. 8 C.F.R. § 103.5(a)(2). Notwithstanding this requirement, to date, one year later, a review of the record reveals no subsequent submission; all other documentation in the record predates the issuance of the notice of decision.

The statement submitted in conjunction with the motion reads simply:

> We are appealing the INS decision because the beneficiary has worked for petition [sic] for the required two years and has worked a minimum of 40 hours per week in consideration for room and board and any other expenses as needed.
>
> The beneficiary has been a member of the Resurrection Power Assembly for at least two years.

As the petitioner has failed to present any new facts or evidence, or to state the reasons for reconsideration supported by precedent decisions, or to state the decision was based on an incorrect application of law or Citizenship and Immigration Services policy, the petitioner has failed to meet the requirements of a motion to reopen or reconsider.

ORDER: The motion is denied. The previous decision of the director and the AAO is affirmed and the petition is denied.

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[1] As there is no provision in the regulations allowing a petitioner to file an appeal on a previously decided appeal, we treat the petitioner's filing of the Form I-290, Notice of Appeal, as a motion to reopen and reconsider in accordance with 8 C.F.R. § 103.5.